

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Rex Lloyd Patrick Rhoten, M.D.

Case No. 800-2016-020655

**Physician's and Surgeon's
Certificate No. A 62823**

Respondent

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 29, 2018.

IT IS SO ORDERED: February 27, 2018.

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
JOSEPH F. MCKENNA III
Deputy Attorney General
State Bar No. 231195
600 West Broadway, Suite 1800
San Diego, California 92101
P.O. Box 85266
San Diego, California 92186-5266
Telephone: (619) 738-9417
Facsimile: (619) 645-2061

Attorneys for Complainant

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**REX LLOYD PATRICK RHOTEN, M.D.
PO BOX 1950
Rancho Santa Fe, California
92067-1950**

**Physician's and Surgeon's Certificate
No. A62823,**

Respondent.

Case No. 800-2016-020655

OAH No. 2017-100324

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, and by Joseph F. McKenna III, Deputy Attorney General.

2. Respondent Rex Lloyd Patrick Rhoten, M.D., (Respondent) is represented in this proceeding by attorney David M. Balfour, Esq., whose address is 1925 Palomar Oaks Way, Suite 220, Carlsbad, California, 92008.

3. On or about June 20, 1997, the Board issued Physician's and Surgeon's Certificate No. A62823 to Respondent. The Physician's and Surgeon's Certificate No. A62823 was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-020655, and will expire on January 31, 2019, unless renewed.

JURISDICTION

4. On September 14, 2017, Accusation No. 800-2016-020655 was filed against Respondent before the Board. A true and correct copy of Accusation No. 800-2016-020655 and all other statutorily required documents were properly served on Respondent on September 14, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2016-020655 is attached hereto as Exhibit A and hereby incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with his counsel, and fully understands the charges and allegations in Accusation No. 800-2016-020655. Respondent also has carefully read, fully discussed with his counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 800-2016-020655; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws, having been fully advised of same by his attorney of record, David M. Balfour, Esq.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2016-020655.

9. Respondent agrees that his Physician's and Surgeon's Certificate No. A62823 is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

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1 medicine. The Respondent shall not resume the practice of medicine until final decision on an
2 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
3 probation shall be filed by the Board within fifteen (15) days of the notification to cease practice.
4 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
5 Board shall provide the Respondent with a hearing within thirty (30) days of the request, unless
6 the Respondent stipulates to a later hearing. A decision shall be received from the Administrative
7 Law Judge or the Board within fifteen (15) days unless good cause can be shown for the delay.
8 The cessation of practice shall not apply to the reduction of the probationary time period.

9 If the Board does not file an accusation or petition to revoke probation within fifteen (15)
10 days of the issuance of the notification to cease practice or does not provide Respondent with a
11 hearing within thirty (30) days of a such a request, the notification of cease practice shall be
12 dissolved.

13 2. ALCOHOL – ABSTAIN FROM USE. Respondent shall abstain completely from the
14 use of products or beverages containing alcohol.

15 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
16 receive a notification from the Board or its designee to immediately cease the practice of
17 medicine. The Respondent shall not resume the practice of medicine until final decision on an
18 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
19 probation shall be filed by the Board within fifteen (15) days of the notification to cease practice.
20 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
21 Board shall provide the Respondent with a hearing within thirty (30) days of the request, unless
22 the Respondent stipulates to a later hearing. A decision shall be received from the Administrative
23 Law Judge or the Board within fifteen (15) days unless good cause can be shown for the delay.
24 The cessation of practice shall not apply to the reduction of the probationary time period.

25 If the Board does not file an accusation or petition to revoke probation within fifteen (15)
26 days of the issuance of the notification to cease practice or does not provide Respondent with a
27 hearing within thirty (30) days of a such a request, the notification of cease practice shall be
28 dissolved.

1 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar
2 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,
3 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
4 Respondent shall participate in and successfully complete that program. Respondent shall
5 provide any information and documents that the program may deem pertinent. Respondent shall
6 successfully complete the classroom component of the program not later than six (6) months after
7 Respondent's initial enrollment, and the longitudinal component of the program not later than the
8 time specified by the program, but no later than one (1) year after attending the classroom
9 component. The professionalism program shall be at Respondent's expense and shall be in
10 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

11 A professionalism program taken after the acts that gave rise to the charges in Accusation
12 No. 800-2016-020655, but prior to the effective date of the Decision may, in the sole discretion of
13 the Board or its designee, be accepted towards the fulfillment of this condition if the program
14 would have been approved by the Board or its designee had the program been taken after the
15 effective date of this Decision.

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than fifteen (15) calendar days after successfully completing the program or not
18 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

19 4. PSYCHOTHERAPY. Within sixty (60) calendar days of the effective date of this
20 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
21 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
22 has a doctoral degree in psychology and at least five (5) years of postgraduate experience in the
23 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
24 undergo and continue psychotherapy treatment, including any modifications to the frequency of
25 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

26 The psychotherapist shall consider any information provided by the Board or its designee
27 and any other information the psychotherapist deems relevant and shall furnish a written
28 evaluation report to the Board or its designee. Respondent shall cooperate in providing the

1 psychotherapist with any information and documents that the psychotherapist may deem
2 pertinent.

3 Respondent shall have the treating psychotherapist submit quarterly status reports to the
4 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
5 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
6 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
7 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
8 period of probation shall be extended until the Board determines that Respondent is mentally fit
9 to resume the practice of medicine without restrictions.

10 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

11 5. MEDICAL EVALUATION AND TREATMENT. Within thirty (30) calendar days
12 of the effective date of this Decision, and on a periodic basis thereafter as may be required by the
13 Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed
14 physician who shall consider any information provided by the Board or designee and any other
15 information the evaluating physician deems relevant and shall furnish a medical report to the
16 Board or its designee. Respondent shall provide the evaluating physician any information and
17 documentation that the evaluating physician may deem pertinent.

18 Following the evaluation, Respondent shall comply with all restrictions or conditions
19 recommended by the evaluating physician within fifteen (15) calendar days after being notified
20 by the Board or its designee. If Respondent is required by the Board or its designee to undergo
21 medical treatment, Respondent shall within thirty (30) calendar days of the requirement notice,
22 submit to the Board or its designee for prior approval the name and qualifications of a California
23 licensed treating physician of Respondent's choice. Upon approval of the treating physician,
24 Respondent shall within fifteen (15) calendar days undertake medical treatment and shall
25 continue such treatment until further notice from the Board or its designee.

26 The treating physician shall consider any information provided by the Board or its
27 designee or any other information the treating physician may deem pertinent prior to
28 commencement of treatment. Respondent shall have the treating physician submit quarterly

1 reports to the Board or its designee indicating whether or not the Respondent is capable of
2 practicing medicine safely.

3 Respondent shall provide the Board or its designee with any and all medical records
4 pertaining to treatment, the Board or its designee deems necessary.

5 If, prior to the completion of probation, Respondent is found to be physically incapable of
6 resuming the practice of medicine without restrictions, the Board shall retain continuing
7 jurisdiction over Respondent's license and the period of probation shall be extended until the
8 Board determines that Respondent is physically capable of resuming the practice of medicine
9 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

10 Respondent shall not engage in the practice of medicine until notified by the Board or its
11 designee of its determination that Respondent is medically fit to practice safely.

12 6. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
13 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where
14 1) Respondent merely shares office space with another physician but is not affiliated for purposes
15 of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

16 If Respondent fails to establish a practice with another physician or secure employment in
17 an appropriate practice setting within sixty (60) calendar days of the effective date of this
18 Decision, Respondent shall receive a notification from the Board or its designee to cease the
19 practice of medicine within three (3) calendar days after being so notified. The Respondent shall
20 not resume practice until an appropriate practice setting is established.

21 If, during the course of the probation, the Respondent's practice setting changes and the
22 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
23 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
24 If Respondent fails to establish a practice with another physician or secure employment in an
25 appropriate practice setting within sixty (60) calendar days of the practice setting change,
26 Respondent shall receive a notification from the Board or its designee to cease the practice of
27 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
28 practice until an appropriate practice setting is established.

1 7. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
2 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
3 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
4 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
5 board certified physician and surgeon. The examiner shall consider any information provided by
6 the Board or its designee and any other information he or she deems relevant, and shall furnish a
7 written evaluation report to the Board or its designee.

8 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
9 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
10 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
11 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
12 professional standards for conducting substance abuse clinical diagnostic evaluations. The
13 evaluator shall not have a current or former financial, personal, or business relationship with
14 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
15 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
16 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
17 threat to himself or others, and recommendations for substance abuse treatment, practice
18 restrictions, or other recommendations related to Respondent's rehabilitation and ability to
19 practice safely. If the evaluator determines during the evaluation process that Respondent is a
20 threat to himself or others, the evaluator shall notify the Board within twenty-four (24) hours of
21 such a determination.

22 In formulating his or her opinion as to whether Respondent is safe to return to either part-
23 time or full-time practice and what restrictions or recommendations should be imposed, including
24 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
25 following factors: Respondent's license type; Respondent's history; Respondent's documented
26 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
27 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
28 history and current medical condition; the nature, duration and severity of Respondent's

1 substance abuse problem or problems; and whether Respondent is a threat to himself or the
2 public.

3 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
4 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
5 requests additional information or time to complete the evaluation and report, an extension may
6 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
7 assigned the matter.

8 The Board shall review the clinical diagnostic evaluation report within five (5) business
9 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
10 practice and what restrictions or recommendations shall be imposed on Respondent based on the
11 recommendations made by the evaluator. Respondent shall not be returned to practice until he
12 has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
13 that he has not used, consumed, ingested, or administered to himself a prohibited substance, as
14 defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

15 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
16 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
17 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
18 designee, shall be borne by the licensee.

19 Respondent shall not engage in the practice of medicine until notified by the Board or its
20 designee that he is fit to practice medicine safely. The period of time that Respondent is not
21 practicing medicine shall not be counted toward completion of the term of probation. Respondent
22 shall undergo biological fluid testing as required in this Decision at least two (2) times per week
23 while awaiting the notification from the Board if he is fit to practice medicine safely.

24 Respondent shall comply with all restrictions or conditions recommended by the examiner
25 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
26 by the Board or its designee.

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1 8. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
2 days of the effective date of this Decision, Respondent shall provide to the Board the names,
3 physical addresses, mailing addresses, and telephone numbers of any and all employers and
4 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
5 worksite monitor, and Respondent's employers and supervisors to communicate regarding
6 Respondent's work status, performance, and monitoring.

7 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
8 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
9 privileges.

10 9. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
11 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
12 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
13 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
14 make daily contact with the Board or its designee to determine whether biological fluid testing is
15 required. Respondent shall be tested on the date of the notification as directed by the Board or its
16 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
17 any time, including weekends and holidays. Except when testing on a specific date as ordered by
18 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
19 basis. The cost of biological fluid testing shall be borne by the Respondent.

20 During the first year of probation, Respondent shall be subject to fifty-two (52) to one
21 hundred four (104) random tests. During the second year of probation and for the duration of the
22 probationary term, up to five (5) years, Respondent shall be subject to thirty-six (36) to one
23 hundred four (104) random tests per year. Only if there have been no positive biological fluid
24 tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1)
25 time per month. Nothing precludes the Board from increasing the number of random tests to the
26 first-year level of frequency for any reason.

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1 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
2 approved in advance by the Board or its designee, that will conduct random, unannounced,
3 observed, biological fluid testing and meets all of the following standards:

4 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
5 Association or have completed the training required to serve as a collector for the United
6 States Department of Transportation.

7 (b) Its specimen collectors conform to the current United States Department of
8 Transportation Specimen Collection Guidelines.

9 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
10 by the United States Department of Transportation without regard to the type of test
11 administered.

12 (d) Its specimen collectors observe the collection of testing specimens.

13 (e) Its laboratories are certified and accredited by the United States Department of Health
14 and Human Services.

15 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
16 of receipt and all specimens collected shall be handled pursuant to chain of custody
17 procedures. The laboratory shall process and analyze the specimens and provide legally
18 defensible test results to the Board within seven (7) business days of receipt of the
19 specimen. The Board will be notified of non-negative results within one (1) business day
20 and will be notified of negative test results within seven (7) business days.

21 (g) Its testing locations possess all the materials, equipment, and technical expertise
22 necessary in order to test Respondent on any day of the week.

23 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
24 for the detection of alcohol and illegal and controlled substances.

25 (i) It maintains testing sites located throughout California.

26 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
27 computer database that allows the Respondent to check in daily for testing.

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1 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
2 access to drug test results and compliance reporting information that is available twenty-
3 four (24) hours a day.

4 (l) It employs or contracts with toxicologists that are licensed physicians and have
5 knowledge of substance abuse disorders and the appropriate medical training to interpret
6 and evaluate laboratory biological fluid test results, medical histories, and any other
7 information relevant to biomedical information.

8 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
9 while practicing, even if the Respondent holds a valid prescription for the substance.

10 Prior to changing testing locations for any reason, including during vacation or other travel,
11 alternative testing locations must be approved by the Board and meet the requirements above.

12 The contract shall require that the laboratory directly notify the Board or its designee of
13 non-negative results within one (1) business day and negative test results within seven (7)
14 business days of the results becoming available. Respondent shall maintain this laboratory or
15 service contract during the period of probation.

16 A certified copy of any laboratory test result may be received in evidence in any
17 proceedings between the Board and Respondent.

18 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
19 administered to himself a prohibited substance, the Board shall order Respondent to cease
20 practice and instruct Respondent to leave any place of work where Respondent is practicing
21 medicine or providing medical services. The Board shall immediately notify all of Respondent's
22 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
23 provide medical services while the cease-practice order is in effect.

24 A biological fluid test will not be considered negative if a positive result is obtained while
25 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
26 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

27 After the issuance of a cease-practice order, the Board shall determine whether the positive
28 biological fluid test is in fact evidence of prohibited substance use by consulting with the

specimen collector and the laboratory, communicating with the licensee, his treating physician(s), other health care provider, or group facilitator, as applicable.

For purposes of this condition, the terms “biological fluid testing” and “testing” mean the acquisition and chemical analysis of a Respondent’s urine, blood, breath, or hair.

For purposes of this condition, the term “prohibited substance” means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent has been instructed by the Board not to use, consume, ingest, or administer to himself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance Respondent’s rehabilitation.

10. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meeting shall have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. Respondent’s previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The facilitator shall provide a signed document to the Board or its designee showing Respondent’s name, the group name, the date and location of the meeting, Respondent’s

attendance, and Respondent's level of participation and progress. The facilitator shall report any unexcused absence by Respondent from any substance abuse support group meeting to the Board, or its designee, within twenty-four (24) hours of the unexcused absence.

11. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring the Respondent at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but Respondent's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth by the Board or its designee.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding Respondent's behavior, if requested by the Board or its designee; and review Respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours, the verbal report shall be made to the Board or its designee within one (1) hour of the next business day. A written

1 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
2 any other information deemed important by the worksite monitor shall be submitted to the Board
3 or its designee within forty-eight (48) hours of the occurrence.

4 The worksite monitor shall complete and submit a written report monthly or as directed by
5 the Board or its designee which shall include the following:

- 6 (1) Respondent's name and Physician's and Surgeon's Certificate number;
- 7 (2) the worksite monitor's name and signature;
- 8 (3) the worksite monitor's license number, if applicable;
- 9 (4) the location or location(s) of the worksite;
- 10 (5) the dates Respondent had face-to-face contact with the worksite monitor;
- 11 (6) the names of worksite staff interviewed, if applicable;
- 12 (7) a report of Respondent's work attendance;
- 13 (8) any change in Respondent's behavior and/or personal habits; and
- 14 (9) any indicators that can lead to suspected substance abuse by Respondent.

15 Respondent shall complete any required consent forms and execute agreements with the
16 approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee,
17 and worksite monitor to exchange information.

18 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
19 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
20 approval, the name and qualifications of a replacement monitor who will be assuming that
21 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
22 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
23 monitor, Respondent shall receive a notification from the Board or its designee to cease the
24 practice of medicine within three (3) calendar days after being so notified. Respondent shall
25 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
26 responsibility.

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12. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
probation.

A. If Respondent commits a major violation of probation as defined by section
1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
one or more of the following actions:

(1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
order issued by the Board or its designee shall state that Respondent must test negative for at least
a month of continuous biological fluid testing before being allowed to resume practice. For
purposes of determining the length of time a Respondent must test negative while undergoing
continuous biological fluid testing following issuance of a cease-practice order, a month is
defined as thirty (30) calendar days. Respondent may not resume the practice of medicine until
notified in writing by the Board or its designee that he may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
other action as determined by the Board or its designee.

B. If Respondent commits a minor violation of probation as defined by section
1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
one or more of the following actions:

(1) Issue a cease-practice order.

(2) Order practice limitations.

(3) Order or increase supervision of Respondent.

(4) Order increased documentation.

(5) Issue a citation and fine, or a warning letter.

(6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in

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1 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
2 Regulations, at Respondent's expense.

3 (7) Take any other action as determined by the Board or its designee.

4 C. Nothing in this Decision shall be considered a limitation on the Board's authority
5 to revoke Respondent's probation if he has violated any term or condition of probation. If
6 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
7 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
8 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
9 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
10 is final, and the period of probation shall be extended until the matter is final.

11 13. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
12 Respondent shall provide a true copy of this Decision and Disciplinary Order and Accusation No.
13 800-2016-020655 to the Chief of Staff or the Chief Executive Officer at every hospital where
14 privileges or membership are extended to Respondent, at any other facility where Respondent
15 engages in the practice of medicine, including all physician and locum tenens registries or other
16 similar agencies, and to the Chief Executive Officer at every insurance carrier which extends
17 malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to
18 the Board or its designee within fifteen (15) calendar days.

19 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

20 14. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
21 governing the practice of medicine in California and remain in full compliance with any court
22 ordered criminal probation, payments, and other orders.

23 15. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
24 under penalty of perjury on forms provided by the Board, stating whether there has been
25 compliance with all the conditions of probation.

26 Respondent shall submit quarterly declarations not later than ten (10) calendar days after
27 the end of the preceding quarter.

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1 16. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

5 Respondent shall, at all times, keep the Board informed of Respondent's business and
6 residence addresses, email address (if available), and telephone number. Changes of such
7 addresses shall be immediately communicated in writing to the Board or its designee. Under no
8 circumstances shall a post office box serve as an address of record, except as allowed by Business
9 and Professions Code section 2021(b).

10 Place of Practice

11 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
12 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
13 facility.

14 License Renewal

15 Respondent shall maintain a current and renewed California physician's and surgeon's
16 license.

17 Travel or Residence Outside California

18 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
19 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
20 (30) calendar days.

21 In the event Respondent should leave the State of California to reside or to practice,
22 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
23 dates of departure and return.

24 17. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
25 available in person upon request for interviews either at Respondent's place of business or at the
26 probation unit office, with or without prior notice throughout the term of probation.

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28 ////

1 18. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
2 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
3 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
4 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine
5 as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours
6 in a calendar month in direct patient care, clinical activity or teaching, or other activity as
7 approved by the Board. If Respondent resides in California and is considered to be in non-
8 practice, Respondent shall comply with all terms and conditions of probation. All time spent in
9 an intensive training program which has been approved by the Board or its designee shall not be
10 considered non-practice and does not relieve Respondent from complying with all the terms and
11 conditions of probation. Practicing medicine in another state of the United States or Federal
12 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
13 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
14 considered as a period of non-practice.

15 In the event Respondent's period of non-practice while on probation exceeds eighteen (18)
16 calendar months, Respondent shall successfully complete the Federation of State Medical Board's
17 Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment
18 program that meets the criteria of Condition 18 of the current version of the Board's "Manual of
19 Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of
20 medicine.

21 Respondent's period of non-practice while on probation shall not exceed two (2) years.

22 Periods of non-practice will not apply to the reduction of the probationary term.

23 Periods of non-practice for a Respondent residing outside of California will relieve
24 Respondent of the responsibility to comply with the probationary terms and conditions with the
25 exception of this condition and the following terms and conditions of probation: Obey All Laws;
26 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
27 Controlled Substances; and Biological Fluid Testing.

28 ////

1 19. COMPLETION OF PROBATION. Respondent shall comply with all financial
2 obligations (e.g., restitution and/or probation costs) not later than one hundred twenty (120)
3 calendar days prior to the completion of probation. Upon successful completion of probation,
4 Respondent's certificate shall be fully restored.

5 20. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
6 of probation is a violation of probation. If Respondent violates probation in any respect, the
7 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
8 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
9 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
10 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
11 be extended until the matter is final.

12 21. LICENSE SURRENDER. Following the effective date of this Decision, if
13 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
14 the terms and conditions of probation, Respondent may request to surrender his license. The
15 Board reserves the right to evaluate Respondent's request and to exercise its discretion in
16 determining whether or not to grant the request, or to take any other action deemed appropriate
17 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
18 shall within fifteen (15) calendar days deliver Respondent's wallet and wall certificate to the
19 Board or its designee and Respondent shall no longer practice medicine. Respondent will no
20 longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical
21 license, the application shall be treated as a petition for reinstatement of a revoked certificate.

22 22. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
23 with probation monitoring each and every year of probation, as designated by the Board, which
24 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
25 California and delivered to the Board or its designee no later than January 31 of each calendar
26 year.

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28 ////

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, David M. Balfour, Esq. I understand the stipulation and the effect
4 it will have on my Physician's and Surgeon's Certificate No. A62823. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Medical Board of California.

7 DATED: 1-25-18

8 
REX LLOYD PATRICK RHOTEN, M.D.
Respondent

9 I have read and fully discussed with Respondent Rex Lloyd Patrick Rhoten, M.D., the terms
10 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
11 Order. I approve its form and content.

12 DATED: 1/26/2018

13 
DAVID M. BALFOUR, ESQ.
Attorney for Respondent

14 ENDORSEMENT

15
16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Medical Board of California.

18 Dated: JANUARY 26, 2018

Respectfully submitted,

19 XAVIER BECERRA
20 Attorney General of California
21 ALEXANDRA M. ALVAREZ
22 Supervising Deputy Attorney General

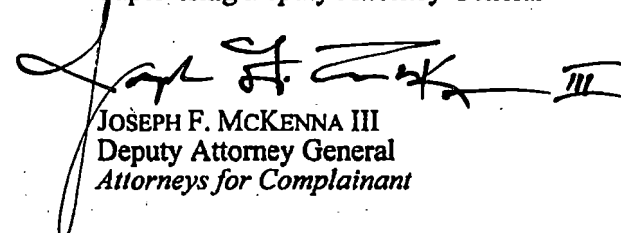
23 
24 JOSEPH F. MCKENNA III
25 Deputy Attorney General
26 Attorneys for Complainant

Exhibit A

Accusation No. 800-2016-020655

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Sept 14 20 17
BY D. Richards ANALYST

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
JOSEPH F. MCKENNA III
Deputy Attorney General
State Bar No. 231195
600 West Broadway, Suite 1800
San Diego, California 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9417
Facsimile: (619) 645-2061

Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2016-020655

REX LLOYD PATRICK RHOTEN, M.D.
4647 Zion Avenue
Department of Neurosurgery
San Diego, California 92120-2507

A C C U S A T I O N

Physician's and Surgeon's Certificate
No. A62823,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 20, 1997, the Board issued Physician's and Surgeon's Certificate No. A62823 to Rex Lloyd Patrick Rhoten, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2019, unless renewed.

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1 is a licensee. The notice shall identify the licensee and describe the crimes charged
2 and the facts alleged. The prosecuting agency shall also notify the clerk of the
3 court in which the action is pending that the defendant is a licensee, and the clerk
4 shall record prominently in the file that the defendant holds a license as a physician
5 and surgeon.

6 “(c) The clerk of the court in which a licensee is convicted of a crime shall,
7 within 48 hours after the conviction, transmit a certified copy of the record of
8 conviction to the board. The division may inquire into the circumstances
9 surrounding the commission of a crime in order to fix the degree of discipline or to
10 determine if the conviction is of an offense substantially related to the
11 qualifications, functions, or duties of a physician and surgeon.

12 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere
13 is deemed to be a conviction within the meaning of this section and Section
14 2236.1. The record of conviction shall be conclusive evidence of the fact that the
15 conviction occurred.”

16 8. Section 2239 of the Code states, in pertinent part:

17 “(a) The use or prescribing for or administering to himself or herself, of any
18 controlled substance; or the use of any of the dangerous drugs specified in Section
19 4022, or of alcoholic beverages, to the extent, or in such a manner as to be
20 dangerous or injurious to the licensee, or to any other person or to the public, or to
21 the extent that such use impairs the ability of the licensee to practice medicine
22 safely or more than one misdemeanor or any felony involving the use,
23 consumption, or self administration of any of the substances referred to in this
24 section, or any combination thereof, constitutes unprofessional conduct. The
25 record of the conviction is conclusive evidence of such unprofessional conduct.

26 “(b) A plea or verdict of guilty or a conviction following a plea of nolo
27 contendere is deemed to be a conviction within the meaning of this section. The
28 Medical Board may order discipline of the licensee in accordance with Section

2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.”¹

9. Section 1360, title 16, of the California Code of Regulations states:

“For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.”

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¹ There is a nexus between a physician’s use of controlled substances and his or her fitness to practice medicine, established by the Legislature in section 2239, that “has determined that conviction of a doctor for a violation of the laws regulating narcotics and dangerous drugs or a doctor’s personal non-prescribed use of such substances evidences a sufficient danger to the public that sanctions should be imposed regardless of the availability of evidence that such conduct in fact impaired the doctor’s professional skill.” (*Weissbuch v. Board of Medical Examiners* (1974) 41 Cal.App.3d 924, 929.)

FIRST CAUSE FOR DISCIPLINE

**(Conviction of a Crime Substantially Related to the Qualifications,
Functions, or Duties of a Physician and Surgeon)**

10. Respondent has subjected his Physician's and Surgeon's Certificate No. A62823 to disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), of the Code, in that he has been convicted of a crime substantially related to the qualifications, functions, or duties of a physician and surgeon, as more particularly alleged hereinafter:

11. The May 18, 2016 DUI Conviction

(a) On or about February 20, 2016, at approximately 1707 hours, California Highway Patrol (CHP) Officer C.P. was on patrol in a marked vehicle and in full uniform, when he responded to a dispatched radio call of a solo vehicle collision on Via de la Valle, east of La Gracia, in the unincorporated area of Rancho Santa Fe, in the County of San Diego.

(b) At approximately 1719 hours, Officer C.P. arrived at the collision location and observed an adult male, later identified as the Respondent, seated on a gurney and being treated on the roadside by medical personnel from the fire department. Officer C.P. also observed a vehicle stopped next to a tree on a descending embankment off the roadside, later identified as Respondent's vehicle, which had sustained major crush damage, a shattered windshield, and the right rear tire had been entirely severed from the vehicle. Officer C.P. then observed the apparent path of Respondent's vehicle after it had left the road, which showed the vehicle had collided with multiple trees, shrubs, and an irrigation pipe before it came to a stop.

(c) Officer C.P. contacted Respondent while he was still being treated by medical personnel on the gurney and questioned him about the details of the collision. Respondent stated that he had left home and had been driving the vehicle on his way to work at a hospital where he was the "on-call doctor." He further stated that he had been driving west-bound on Via de la Valle at thirty (30)

1 miles per hour and, at some point, he looked down at his cell phone and the next
2 thing he knew the vehicle's air bags were being deployed. Respondent suffered a
3 chest injury as a result of the collision and was the vehicle's sole occupant at the
4 time of the collision.

5 (d) While speaking with Respondent, Officer C.P. observed several
6 objective signs of impairment including, strong odor of alcohol on his breath
7 and person, red and watery eyes, and slurred speech. When asked about whether
8 he had recently consumed any alcoholic beverages, Respondent denied that he
9 had consumed any alcohol on the date of the collision. Respondent told Officer
10 C.P. that the last time he had consumed any alcohol was the evening before the
11 date of the collision, at his home, wherein he had consumed only two (2) glasses
12 of wine.

13 (e) Due to Respondent being treated by medical personnel, only limited
14 Field Sobriety Tests were able to be performed by Respondent. Respondent did
15 perform the Horizontal Gaze Nystagmus (HGN) test, which results confirmed
16 Officer C.P.'s observations of multiple objective signs of impairment, and, also
17 corroborated other factors showing that Respondent had been driving while
18 impaired and under the influence of alcohol at the time of the collision.

19 (f) Based upon the totality of facts and circumstances, including,
20 Respondent's statements and admission to driving at the time of the collision,
21 his objective signs of impairment, the presence of HGN, and the major damage
22 to the vehicle and surrounding property along the roadside, Officer C.P. arrested
23 Respondent for driving under the influence (DUI) of alcohol, in violation of
24 Vehicle Code section 23152, subdivisions (a) and (b).

25 (g) Following arrest, Respondent was then transported by ambulance to a
26 local area hospital where he refused treatment and was released, and then taken
27 back into custody by Officer C.P. Officer C.P. then advised Respondent that he
28 was required under California law to consent to a chemical test, but Respondent

1 told Officer C.P. that he refused to consent to a chemical test. Officer C.P. then
2 read to Respondent, verbatim, the law regarding the ramifications of a refusal to
3 consent to a chemical test, as required, under Vehicle Code section 23612.²
4 Respondent again refused to consent to a chemical test. Due to Respondent's
5 repeated refusal, Officer C.P. had to obtain a warrant for a forced blood draw,
6 which was issued by Judge T.W. of the San Diego Superior Court later that
7 evening.

8 (h) On or about February 20, 2016, at approximately 2002 hours,
9 approximately three (3) hours after Respondent's collision, a forced blood draw
10 was performed on Respondent. The blood sample was later tested and measured
11 Respondent's Blood Alcohol Concentration (BAC) level at 0.26 percent.

12 (i) On or about March 29, 2016, the San Diego County District Attorney's
13 Office filed a criminal complaint against Respondent in the matter of *The People*
14 *of the State of California v. Rex Lloyd Patrick Rhoten*, Superior Court Case No.
15 CN357442. The criminal complaint charged the Respondent with committing two
16 (2) misdemeanors:

17 (1) Count 1: Vehicle Code Section 23152, subdivision (a), wherein,
18 Respondent did unlawfully, while under the influence of an alcoholic beverage,
19 drive a vehicle; and

20 (2) Count 2: Vehicle Code Section 23152, subdivision (b), wherein,
21 Respondent did unlawfully, while having 0.08 percent and more, by weight, of
22 alcohol in his blood, drive a vehicle.

23 (3) Both counts contained special allegations which alleged that Respondent
24 drove with a BAC of 0.15 percent or more, and, that Respondent refused to submit,
25 and failed to complete a chemical test.

26 ² Section 23612, subdivision (a), subsection (1)(A), states: "A person who drives a motor
27 vehicle is deemed to have given his or her consent to chemical testing of his or her blood or
28 breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested
for an offense allegedly committed in violation of Section 23140, 23152, or 23153."

1 (j) On or about May 18, 2016, Respondent was convicted of Count 1. The
2 San Diego County Superior Court sentenced Respondent to probation for five (5)
3 years, with the following terms and conditions:

- 4 (1) Enroll in nine (9) month First Offender Conviction Program;
5 (2) Complete MADD Impact Panel;
6 (3) One hundred fifty (150) hours of volunteer work;
7 (4) Restitution; and
8 (5) Standard fines.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Use of Alcoholic Beverages to the Extent, or in Such a Manner,
11 as to be Dangerous or Injurious to Respondent, Another Person or the Public)

12 12. Respondent has further subjected his Physician's and Surgeon's Certificate No.
13 A62823 to disciplinary action under sections 2227 and 2234, as defined by section 2239,
14 subdivision (a), of the Code, in that he consumed alcoholic beverages, to the extent, or in such a
15 manner as to be dangerous or injurious to Respondent, or to any other person or to the public, as
16 more particularly alleged in paragraphs 10 and 11, above, which are hereby incorporated by
17 reference and realleged as if fully set forth herein.

18 **THIRD CAUSE FOR DISCIPLINE**

19 (General Unprofessional Conduct)

20 13. Respondent has further subjected his Physician's and Surgeon's Certificate No.
21 A62823 to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the
22 Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical
23 profession, or conduct which is unbecoming a member in good standing of the medical
24 profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged
25 in paragraphs 10, 11 and 12, above, which are hereby incorporated by reference and realleged as
26 if fully set forth herein.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. A62823, issued to
5 Respondent Rex Lloyd Patrick Rhoten, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Rex Lloyd Patrick Rhoten,
7 M.D.'s, authority to supervise physician assistants pursuant to section 3527 of the Code, and
8 advanced practice nurses;

9 3. Ordering Respondent Rex Lloyd Patrick Rhoten, M.D., to pay the Medical Board the
10 costs of probation monitoring, if placed on probation; and

11 4. Taking such other and further action as deemed necessary and proper.

12
13 DATED: September 14, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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